



The Comptroller General  
of the United States

Washington, D.C. 20548

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## Decision

Matter of: Sealift Shipyards of Texas

File: B-231857

Date: July 25, 1988

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### DIGEST

Where a procuring agency renders a protest academic by taking the corrective action requested by the protester, the General Accounting Office has no legal basis on which to find the protester entitled to recover its protest costs.

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### DECISION

Sealift Shipyards of Texas protests that request for proposals (RFP) No. N00033-88-R-4001, issued by the Department of the Navy for layberth facilities for SL-7 ships, contained unduly restrictive specifications. Sealift also requests that it be awarded the costs of filing and pursuing the protest.

Sealift protested the RFP requirement that the facility have vertical clearance of at least 142 feet at mean high water, asserting that the ships could be berthed in a facility with a vertical clearance of 136 feet. Shortly after the protest was filed, the Navy, in response, issued an amendment to change the requirement to vertical clearance of no less than 136 feet. This change of the specification in accordance with Sealift's request has rendered the protest academic. Teleconferencing Systems, Inc., B-229928, Mar. 16, 1988, 88-1 CPD ¶ 272.

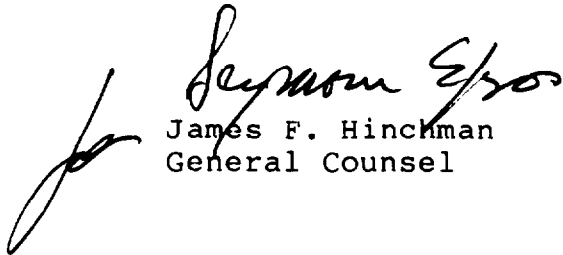
Sealift, having received the amendment, points out that competition under the solicitation will be enhanced as a result of its protest. Sealift argues that since the Navy took corrective action only because of the protest, we should award the firm its protest costs.

Our authority to award a protester costs is provided by the Competition in Contracting Act of 1984 (CICA), 31 U.S.C. § 3554(c)(1) (Supp. IV 1986), as implemented by our Bid Protest Regulations, 4 C.F.R. § 21.6 (1988). This authority is expressly predicated upon a determination by this Office that a solicitation, proposed award, or award does not

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comply with a statute or regulation. Monarch Painting Corp., B-220666.3, Apr. 23, 1986, 86-1 CPD ¶ 396. Here, our Office has not made such a determination since the protest issue has become academic. Consequently, there is no basis upon which to declare Sealift entitled to reimbursement of its costs.

The protest is dismissed and the claim is denied.



James F. Hinchman  
General Counsel